



STATE OF MICHIGAN
TERRI LYNN LAND, SECRETARY OF STATE
DEPARTMENT OF STATE
LANSING

November 14, 2005

Mr. Robert S. LaBrant
Michigan Chamber of Commerce
600 South Walnut Street
Lansing, Michigan 48933-2200

Dear Mr. LaBrant:

This is in response to your request for a declaratory ruling or interpretive statement under the Michigan Campaign Finance Act (MCFA), 1976 PA 388, as amended. Specifically, you ask whether the Department of State continues to interpret the MCFA as follows:

Costs incurred in the implementation and operation of a payroll deduction plan for automatic contributions is an expenditure under the MCFA. Such costs are similar to providing postage and pre-addressed envelopes, and other costs associated with the collection and delivery of contributions. The amount of the payroll deduction is a contribution of the person from whose wages the contribution is being deducted, but costs incurred in the collection and delivery of contributions are expenditures by the person who pays for the payroll deduction system. Expenditures made by a corporation for the collection and delivery of contributions to a separate segregated fund other than its own is an in-kind contribution of the corporation and is prohibited by section 54 (1) of the MCFA. (Declaratory Rulings issued to Ms. Judith L. Corley and Mr. Timothy Sponsler on November 2, 1993.)

A corporation is prohibited from making a contribution to the separate segregated fund of a labor organization. However, a labor organization may compensate a corporation for all expenses incident to its instituting a payroll deduction plan for the solicitation of contributions to the labor organization's separate segregated fund.

This interpretation was included in a July 11, 1997 declaratory ruling and interpretive statement that was withdrawn by the department on September 30, 1998. The withdrawal occurred after litigation challenging portions of the 1997 declaratory ruling had ended. [See *Michigan State AFL-CIO et al v Secretary of State et al*, 230 Mich. App. 1 (1998)] Plaintiffs contested the department's conclusion that the annual affirmative consent for automatic contributions mandated by section 55(6) of the MCFA required signed, written consent that expired at the end of the calendar year. Ultimately, the signed writing and December 31 expiration were

promulgated as administrative rules R 169.39c and R 169.39d. However, the litigation did not in any way address the department's interpretation of section 54(1), as quoted above.

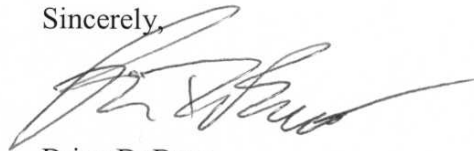
The Corley and Sponsler declaratory rulings remain in effect and are binding on the department. Pursuant to those rulings, the department interprets the term "expenditure" to include the costs associated with collecting and delivering contributions to a committee. A payroll deduction system is one method of collecting and delivering contributions.

"Expenditure" is defined in section 6 of the MCFA to include the transfer of anything of ascertainable monetary value for goods, materials, services, or facilities in assistance of or opposition to the nomination or election of a candidate. Pursuant to section 54(1) of the statute, a corporation is prohibited from making expenditures or contributions in candidate elections except as authorized by section 55 of the MCFA. Since 1978, section 55 has been interpreted as allowing a corporation to make an expenditure for the establishment, administration, and solicitation of contributions to a single separate segregated fund. [See OAG 1977-1978, No 5344, p 482 (July 20, 1978)] Thus, a corporation may not make expenditures to benefit another separate segregated fund, including a fund established by a labor organization.

If a corporation through a payroll deduction system transfers anything of ascertainable monetary value for goods, materials, services or facilities to a committee other than its own separate segregated fund, it has made an expenditure that is prohibited by section 54 of the MCFA. If the value of those goods, materials, services or facilities can be ascertained and the corporation is reimbursed, there is no corporate expenditure because there is no transfer of value.

As your request did not include a statement of facts sufficient to form the basis of a declaratory ruling, this response is informational only and constitutes an interpretive statement with respect to your inquiry.

Sincerely,

A handwritten signature in black ink, appearing to read "Brian DeBano", with a long horizontal flourish extending to the right.

Brian DeBano
Chief of Staff / Chief Operating Officer